

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN JOHN COBB**, on March 19, 2003 at 2:30 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. John Cobb, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Kelly Gebhardt (R)
Sen. Carolyn Squires (D)
Sen. Mike Wheat (D)

Members Excused: None.

Members Absent: None.

Staff Present: Pat Murdo, Legislative Branch
Lisa Gallagher, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Tape stamp refers to material immediately following.

Committee Business Summary:

Hearing & Date Posted: SR 4, 3/15/2003; SR 5, 3/15/2003;
HB 609, 2/28/2003; HJR 30,
2/28/2003; HB 201, 2/24/2003; HB
548, 2/24/2003
Executive Action: HJR 30; HB 201; HB 548; HB 190

HEARING ON SR 4

Opening Statement:

{Tape: 1; Side: A; Approx. Time Counter: 0.9 - 4.7}

Governor Judy Martz said that **John Mercer** has a very broad base, knows a lot and she has been very pleased with his work on the

Board of Regents. She also said that he brings a different aspect to the Board.

Governor Judy Martz said that **Christian Hur** would provide continuity during a time of transition as a student representative on the Board of Regents. He has traveled to all of the universities and has listened to the concerns of the students. The Governor is asking for an extension of one year so that he will have served three years altogether.

Exhibit 1 was handed out to the Committee before the meeting.

EXHIBIT(sts58a01)

Questions from Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Counter: 5.1 - 12.1}

SEN. SQUIRES asked **John Mercer** if he thought that the vo-tech schools and community colleges should do anything different in educating students than what they are doing now. **John Mercer** said that the two-year schools are taking a back seat, and that the Board has tried to elevate the two-year schools. He also said that a lot more will be done with the two-year schools and that a lot can be done. The two-year schools need to be brought forward to the dialogue.

SEN. SQUIRES asked **John Mercer** if he believed that the technical schools were an economic development tool. **John Mercer** said that all education is an economic development tool.

SEN. SQUIRES asked **John Mercer** what has been his accomplishments for the last two years. **John Mercer** said that he hopes to accomplish more. His first year on the Board they approved a 1% surcharge on tuition, and he thought that they should have waited to vote on that because he would have liked to know what they were getting for a 1% raise. He also objected to voting on the budget after the fact. He believes that the Board should be involved before the budget is set.

SEN. SQUIRES asked **John Mercer** if the change in the budget involvement was because of his impact or because of the commissioner. **John Mercer** said that he did not think that it was the commissioner, because he was not involved.

{Tape: 1; Side: A; Approx. Time Counter: 12.2 - 18}

SEN. WHEAT asked **John Mercer** to describe his vision for the Montana University System. **John Mercer** said that there are two

board categories; 1)the Board of Regents, 2)what higher education could do. According to the Constitution the job of the Board of Regents is to supervise, manage, control, and be fully responsible for the university system. This is more than rubber stamping. The Regents need to step up to the plate. The university needs to engage government in business. They need to get away from the adversarial relationship with the government and make it into a partnership. The Board of Regents is meeting with the Governor today to discuss the problems that Montana is facing and they will be working on them in the interim. The education system will provide stability and the goal is to grow the state product. This will help fund the state and the leadership will bring them together.

{Tape: 1; Side: A; Approx. Time Counter: 18.1 - 30}

SEN. GEBHARDT asked **John Mercer** if he had any suggestions for ideas on how to work together. **John Mercer** said that there is a lack of communication between government and higher education. We need to bridge those gaps, and bring them together. There is a lack of common goals.

SEN. GEBHARDT said that he agreed with the lack of communication, and he asked **John Mercer** if the \$20 million shortfall is a concern to him and how it will be covered. **John Mercer** said that the \$20 million is definitely worth worrying about and that number depends on where you draw the line. The Board of Regents will probably reduce programs and raise tuition. Personally he will not support a tuition increase. He said that he thinks that the university should look at a basic cost and set the tuition on the budget and if the budget goes down then tuition has to go up. There needs to be a trust between the state and the education system. Currently, the legislators never know what is going to happen with the higher education system.

SEN. COBB asked **John Mercer** how he defines quality and access. **John Mercer** said that access is the ability to go to college depending on financial situation and geography and it could include day care. Quality should not be determined by flexibility. There is a higher quality at MIT or Harvard. Quality should be set at a base quality. Quality should not slide around state funding. There should be a minimum quality that is defined.

SEN. COBB said that in the past the legislature could not cut the university system. But in the past two sessions they have cut the university system and he asked **John Mercer** if they could do anything different to change that. **John Mercer** said that he

never thought that the legislature should decide the complex budget issues. They should be decided in advance. That way they will know what they are getting for their money.

SEN. COBB asked **John Mercer** if that was the idea behind the Leadership College. **John Mercer** said that the idea behind the Leadership College was to have people from different cities and counties come together to learn about different issues. The Board of Regents was not very interested but they said that they would try it. He tried to do it and found out that it was a conflict of interest and now it is just an idea.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 6.3}

SEN. SQUIRES asked **John Mercer** what the specific role is of research and development in the university system. **John Mercer** said that it is a good idea to grow the state's product. We need to grow the economy of the state, and core schooling is very important. We could use an education, business and government model to decide what the impact of decisions would be on the state. Montana could go after military contracts. We need to try to let education play a maximum role in economic development.

SEN. WHEAT asked **John Mercer** if he thought that the Commissioner's Office should be eliminated, and to give his opinion on the size or reducing the size of the university system. **John Mercer** said that it depends on the role that the Commissioner will play. If the Commissioner's job will take over the Board of Regent's job then it should be eliminated. The Board of Regents should not be a puppet of the Commissioner. Both the Commissioner and the Board should work together. He went on to say that the system could run without a commissioner. There needs to be someone that works with the Board. **John Mercer** said that he did not anticipate any downsizing in the university system. The campuses are huge economic engines.

{Tape: 1; Side: B; Approx. Time Counter: 11.2 - 18.3}

SEN. GEBHARDT asked **John Mercer** what the role of the Board of Regents is when it comes to the curriculum and transferability. **John Mercer** said that the Board is working on it but it takes a long time to make a change. Just because a class has the same name does not mean that it has the same curriculum. He said **Regent Hur** is trying to get common course numbers so that the classes will transfer. He also said that the Board of Regents was heavily involved in the approval of the new curriculum. The curriculum should serve the needs of the students and the state.

SEN. GEBHARDT asked **John Mercer** why the credits do not transfer. **John Mercer** said that the Board is working on that and it is hard to change because they have to go through every class.

SEN. COBB asked **John Mercer** whether with tuition increase, we will have an access problem and, if so, what do we do. **John Mercer** said that there are other things that assist students, like loans, and grants. We need to look at the whole picture. The hope is that the State will see the benefit of higher education.

SEN. WHEAT asked **John Mercer** if it is a good or bad thing that there is a higher population of out-of-state students in the universities in Montana. **John Mercer** said that it is a good thing, because out-of-state students have a big impact on the economy. However, some campuses have trouble attracting out-of-state students. There is a danger in the fact that some people feel that money is driving the university system.

Proponent's Testimony:

SEN. FRED THOMAS, SD 31, said that he was in full support of **John Mercer** and **Christian Hur**. He urged the Committee to keep these two on the Board of Regents and said that they were both doing a good job as Regents.

Cory Swanson, UM Law Student, said that **John Mercer** is the only Regent to teach a class at the university. His experience as a legislator is very important and invaluable. He is a great addition to the Board of Regents and has done a great job.

Questions:

{Tape: 2; Side: A; Approx. Time Counter: 0 - 1.8}

SEN. WHEAT asked **John Mercer** what his thoughts are about improving the gap between the legislature and the Board of Regents. **John Mercer** said that the biggest problem is that higher education thinks that they can give a presentation and the legislature will agree. We need to work and relate with the people, like an on-going business. We need to be out there and constantly involved to provide ideas.

SEN. SPRAGUE said that there is a difference between activities and results and those are sometimes confused. It is difficult to get access to the university system. **John Mercer** said that when he went into this job he went in as an outsider. He said it was like they were speaking a different language. Higher education

thinks that everyone should accept what they want, but both sides need to speak the same language.

SEN. SPRAGUE said that they should try and encourage the nontraditional student to return to college to bring another value to the system. **John Mercer** said that he feels like higher education is trying to address what he is saying. There is a tremendous competition to attract students. The Board is trying to bridge that gap.

Close:

John Mercer said that he loves the Montana University System and the State of Montana. He is not a typical Regent, but he is trying to bridge a gap. He also said that he would have no problem with stepping down if the Senate does not want him.

HEARING ON SR 5

Questions from Committee Members and Responses:

{Tape: 2; Side: A; Approx. Time Counter: 11.1 - 13.3}

SEN. GEBHARDT asked **Christian Hur** how often the Board of Regents meets. **Christian Hur** said that when he was first appointed they met once every other month, but now on the average about once or twice a month.

SEN. GEBHARDT asked **Christian Hur** what his plan is if he is called to active duty. **Christian Hur** said that if he was called he would proudly serve Montana. However, because he is in the JAG (judge advocate general) program he does not expect to be called to duty.

SEN. COBB asked **Christian Hur** why they should pick him over someone else. **Christian Hur** said that he is committed to doing his best. He has brought about standardizing course numbers while serving on the Board. He got rid of the credit cap which affected many nontraditional students in particular. With his experience of being able to get things done, his understanding of the system, and his willingness to serve the students he is a good choice for the Board.

{Tape: 2; Side: A; Approx. Time Counter: 18.7 - 21.8}

SEN. WHEAT asked **Christian Hur** if he considered himself a maverick and if so is that what the students want. **Christian Hur** said that he is not a maverick. He is open to change and

supports some of the ideas of **John Mercer**, but does not agree with all of them. Every vote that he takes is in the best interest of the students.

Testimony:

Dan Geelan, Student Body President MSU Northern in Havre, said that the Montana Associated Students (MAS) feel like they have been left out of the process.

John Swan, President Associated Students of the U of M, said that he is satisfied with Hur's performance, but his concern is with the student input. The students' input is being ignored, and there are other students that are interested in serving on the Board.

Joe Clark, President UM Helena Vo Tech, asked how important is it to keep in touch with the different campuses.

Tom Figarelli, Forward Montana, said that he was in support of Hur. He has done a great job and urged the Committee to confirm him.

Sarah Anderson, COT Great Falls, said that her concern is where two year colleges stand with Hur.

Trevor Blythe, MSU Bozeman, said that he shares those same concerns that were brought up earlier.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 3.5}

Heather O'Laughlin, Business Manager-ASUM, said that the students need to be heard, and that other students should be able to apply for this position.

Jason Thielman, Secretary of State's Office, said that he is in support of Hur and that his continuance on the Board of Regents is a good idea. It is good for the students and in their best interest.

Steve Goble, Helena MT College of Technology, said that he is concerned because the students were not involved. He is concerned with due process and would like to see other students apply.

Questions:

SEN. WHEAT asked **Christian Hur** if a procedural requirement by the Governor was applied. **Christian Hur** said that the Governor's Office legal staff said that his extension was legal and within the statutes.

SEN. WHEAT asked **Christian Hur** if there was student input or if the Governor just extended his term. **Christian Hur** said that the Governor did extend his term, and her office did get input on his appointment.

Close:

Christian Hur said that he was grateful for no personal attacks. Regarding the question about keeping in touch, he said that he speaks with the students at the various campuses through email. He cannot travel because funds are limited but it is very important to keep in contact. He sends out emails all the time. He calls and gets things on the agenda before the meetings. Regarding the question about a two-year education, he said that he has a proposal on the agenda for the next Board meeting that deals with two-year programs. The Presidents of the college's of technology (COT) have a seat at the front. He would like to create an annually rotating deputy commissioner. He said that he thought that the students' voice was heard in 2001 when he was appointed to this position. He feels that another student appointment would be a big expense, and there is a time factor of getting up to speed.

Questions:

SEN. SPRAGUE asked **Christian Hur** if he felt initially intimidated by the other members of the Board. **Christian Hur** said, "Yes I did, very intimidated, there were many people who had more years experience and were more knowledgeable." For the first year he did not speak a lot, he just listened.

SEN. COBB asked **Christian Hur** if it was true that he voted against a student financial aid package. **Christian Hur** said that he voted against a student assistance board that was a loan refinancing program. He voted against it because he felt that the Board should have waited a week because interest rates were going to be cut. It was basically a refinancing issue. He also voted against it because he found several items in the packet that were incorrect.

SEN. COBB asked **Christian Hur** if it was true that he was asked not to pursue issues and he did anyway. **Christian Hur** said that the issue they are referring to is a freeze on all Regent's salaries. Some of the members of MAS wanted to raise salaries, but MAS was not unanimous so in order to be fair he presented the idea.

SEN. COBB asked **Susan Ames, Governor's Office**, if all the appointments were done correctly. **Susan Ames** said, "Yes, MAS submitted three names and they were interviewed by the Governor's Office and Hur was selected."

SEN. COBB asked **Susan Ames** if the extension was legal. **Susan Ames** deferred to **James Santoro, Governor's Chief Legal Counsel**, who said that he looked at the Governor's authority and looked at it, reviewed it and spoke with others, and they all agreed that it was legal. He went on to say that the Governor follows the law and that the law allows for an extension. No more than four years and no less than one year. The Governor's Office does not have a closed door, and he talked with two of the presidents that testified today about their concerns.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 4.4}

SEN. WHEAT asked **James Santoro** if the Committee could have a copy of the memorandum. **James Santoro** said, "Yes."

EXHIBIT(sts58a02)

SEN. SPRAGUE asked **James Santoro** if this was a reappointment or an extension. **James Santoro** said that it is not a new appointment, and read a letter.

EXHIBIT(sts58a03)

SEN. SPRAGUE asked **James Santoro** if they were extending a persons term why did they interview other people. **James Santoro** said that they did not interview others. **Susan Ames** said that they interviewed in 2001.

Close:

Christian Hur said that it is a privilege to serve on the Board of Regents and looks forward to serving the state and students of Montanan.

HEARING ON HB 609

Sponsor: **REPRESENTATIVE JONATHAN WINDY BOY, HD 92, Box Elder**

Opening Statement by Sponsor:

{Tape: 3; Side: A; Approx. Time Counter: 6 - 10.3}

REP. WINDY BOY read through the entire bill.

Proponents' Testimony:

Dan Antonietti, VFW, told a story to the Committee that will be added to the bill. He also said that he was in strong support of this bill.

Opponents' Testimony: none

Questions from Committee Members and Responses:

SEN. GEBHARDT asked REP. WINDY BOY what do we have now to commemorate the Veterans of Foreign Wars. REP. WINDY BOY said, "I don't think anything."

SEN. GEBHARDT said we should have something to honor everyone that served.

Closing by Sponsor:

REP. WINDY BOY said that he would like to include the story told by Dan Antonietti in his bill, and urged the Committee to support this bill.

HEARING ON HJR 30

Sponsor: REPRESENTATIVE JONATHAN WINDY BOY, HD 92, Box Elder

Opening Statement by Sponsor:

REP. WINDY BOY read the resolution to the Committee and had three handouts for the Committee.

EXHIBIT(sts58a04)

EXHIBIT(sts58a05)

EXHIBIT(sts58a06)

Proponents' Testimony:

Toni Plumner said that she is in support of this bill.

Opponents' Testimony: none

Questions from Committee Members and Responses:

SEN. GEBHARDT asked **Toni Plummer** why the money does not go directly to the Indian Reservations instead of through the state. **Toni Plummer** said that the program was developed through the support of the state government and that money going directly to the tribes would have been a hardship to implement administratively.

Closing by Sponsor:

{Tape: 3; Side: A; Approx. Time Counter: 28.5 - 30}

REP. WINDY BOY said that they would like the money to go directly to the reservations and that is their ultimate dream, but they do not want a nightmare if administrative capability is not there.

EXECUTIVE ACTION ON HJR 30

Motion/Vote: **SEN. GEBHARDT** moved that **HJR 30 BE CONCURRED IN**.
Motion carried 4-0 with SEN. SQUIRES excused, by voice vote.

HEARING ON HB 201

Sponsor: **REPRESENTATIVE LARRY JENT, HD 29, Bozeman**

Opening Statement by Sponsor:

{Tape: 3; Side: B; Approx. Time Counter: 0 - 4.5}

REP. JENT said that what this bill does is move the military and overseas voters to one section of the code instead scattered references. It also establishes an office that has overseas voter information. Page three, section four of the bill is requirements by the Help America Vote Act (HAVA.)

Proponents' Testimony:

Janice Doggett, Chief Legal Counsel Secretary of State's Office, said that they are in support of this bill and it implements HAVA.

Don Hargrove, representing Gallatin County Commissioners, said that they are in support of this bill and it will help make elections easier.

Brad Martin, Democratic Party, said that they support HB 201.

Dan Antonietti, VFW, said that he is in support of HB 201.

Opponents' Testimony: none

Questions from Committee Members and Responses:

SEN. GEBHARDT asked **REP. JENT** if the replacement ballots are a new ballot. **REP. JENT** said that they are a new ballot.

SEN. GEBHARDT asked **REP. JENT** how will the clerk and recorder's office determine what is an old ballot. **REP. JENT** deferred to **Elaine Gravely, Secretary of State's Office**, who said that every ballot is marked there is a place on the envelope to mark it and there is no chance of two ballots being counted.

SEN. GEBHARDT asked **Elaine Gravely** if ballots had to be redone and would overseas' voters have a chance to resubmit ballots in time to be counted. **Elaine Gravely** said that all ballots need to be in by 8 pm, on the day of election, otherwise they are not counted. The ballots could be faxed, if the voter gives up the right to secrecy.

Closing by Sponsor:

REP. JENT urged the Committee do concur.

EXECUTIVE ACTION ON HB 201

Motion/Vote: **SEN. GEBHARDT** moved that HB 201 BE CONCURRED IN. Motion carried 4-0 with **SEN. SQUIRES** excused, by voice vote.

HEARING ON HB 548

Sponsor: **REPRESENTATIVE LARRY JENT, HD 29, Bozeman**

Opening Statement by Sponsor:

REP. JENT said that what this bill does is establish a special revenue account for HAVA funds.

Proponents' Testimony:

Janice Doggett, Chief Legal Counsel Secretary of State's Office, said that they support this bill.

Opponents' Testimony: none

Questions from Committee Members and Responses:

SEN. WHEAT asked Janice Doggett if this account allows the money to go to the counties. Janice Doggett said that is correct and the money goes to help counties replace punch card ballots.

Closing by Sponsor:

REP. JENT closed.

EXECUTIVE ACTION ON HB 548

Motion/Vote: SEN. SPRAGUE moved that HB 548 BE CONCURRED IN. Motion carried 4-0 with SEN. SQUIRES excused, by voice vote.

EXECUTIVE ACTION ON HB 190

Motion: SEN. COBB moved that HB 190 BE CONCURRED IN.

Motion: SEN. COBB moved that HB 190 BE AMENDED.

Discussion:

Pat Murdo explained to the Committee the amendment.
EXHIBIT(sts58a07)

Janice Doggett and Brad Martin agreed on a conceptual amendment that was included in Exhibit 7.
EXHIBIT(sts58a07)

Motion/Vote: SEN. COBB moved that HB 190 BE AMENDED. Motion carried 5-0, by voice vote.

Motion: SEN. WHEAT moved that HB 190 BE AMENDED.

Discussion:

{Tape: 4; Side: A; Approx. Time Counter: 0 - 3.5}

SEN. WHEAT explained to the Committee his amendment. He wants to comply with HAVA and only have first time voters show an ID instead of every voter.

Motion/Vote: SEN. WHEAT moved that HB 190 BE AMENDED. Motion failed 2-3 with SEN. SQUIRES and WHEAT voting aye, by voice vote.

Motion: SEN. WHEAT moved that HB 190 BE AMENDED.

Discussion:

SEN. WHEAT explained to the Committee what his amendment would do. It would amend section 25 the part dealing with an ID requirement for an absentee ballot to address what HAVA requires.

Motion/Vote: SEN. WHEAT moved that HB 190 BE AMENDED. Motion failed 2-3 with SEN. SQUIRES and WHEAT voting aye, by voice vote.

Motion: SEN. WHEAT moved that HB 190 BE AMENDED.

Discussion:

SEN. WHEAT explained that the amendment would make sure that absentee ballots were received 45 days before an election instead of 30 days before.

Motion/Vote: SEN. WHEAT moved that HB 190 BE AMENDED. Motion failed 2-3 with SEN. SQUIRES and WHEAT voting aye, by voice vote.

Motion: SEN. COBB moved HB 190 BE AMENDED.

Discussion:

SEN. COBB explained that on page 25 line 15 the words "on election day" need to be included and that the word "return" be struck and "secrecy" inserted.

Motion/Vote: SEN. COBB moved that HB 190 BE AMENDED. Motion carried 5-0, by voice vote.

Motion/Vote: SEN. COBB moved that HB 190 BE CONCURRED IN AS AMENDED. Motion carried 3-2 with SEN. SQUIRES and WHEAT voting no, by voice vote.

Exhibit 8 was handed out to the Committee at the last meeting.

EXHIBIT(sts58a08)

ADJOURNMENT

Adjournment: 6:00 P.M.

SEN. JOHN COBB, Chairman

LISA GALLAGHER, Secretary

JC/LG

EXHIBIT (sts58aad)